UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:15-cy-117-FDW

NAPOLEON J. RANKIN BEY,)
Plaintiff,)
vs.	ORDER
FNU QUINTERO, et al.,)
Defendants.)
)

THIS MATTER comes before the Court on its own motion following Plaintiff's failure to respond to the Court's Show Cause Order dated July 23, 2015.

On May 29, 2015, pro se Plaintiff Napoleon J. Rankin Bey filed this action, pursuant to 42 U.S.C. § 1983, in the Eastern District of North Carolina, and that Court transferred the action to this district on June 22, 2015. (Doc. No. 8). Before the action was transferred, Plaintiff filed a "Corrected Complaint" on June 16, 2015. (Doc. No. 4). Plaintiff named as Defendants five individuals who are identified as employees of Avery-Mitchell Correctional Institution, where Plaintiff is currently incarcerated as a prisoner of the State of North Carolina. Plaintiff alleges that Defendants were deliberately indifferent to Plaintiff's serious medical needs based on his allegations that they denied him the right to take his "mental health medicine" on various dates in May and June 2015. (Doc. No. 4 at 3-4). Plaintiff also makes vague references to "racial discrimination" by Defendants. (Id. at 4). Plaintiff is a frequent and litigious filer of civil rights actions, and he has filed several prior actions in this Court making similar allegations as those made here. Plaintiff has also reached three strikes under 28 U.S.C. § 1915(g).

In the Court's prior show cause order, the Court gave Plaintiff twenty days in which to submit (1) a statement explaining why this action should not be dismissed for failure to exhaust administrative remedies, or (2) documents showing that he, in fact, exhausted his administrative remedies before filing this action. The Court noted that Plaintiff had left blank the box on the administrative remedies statement indicating whether he exhausted his administrative remedies. The Court further noted that, in an attachment to the statement, Plaintiff explained that he did not submit a grievance because it would have been futile to do so. In the show cause order, the Court specifically warned Plaintiff that his failure to submit a timely response would result in the dismissal of this action without prejudice and without further notice to Plaintiff. Plaintiff has not responded to the Court's order. This action is, therefore, dismissed without prejudice for failure to exhaust.

Frank D. Whitney

Chief United States District Judge

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